

23.202 Policy.

(a) *Introduction.* The Government's policy is to acquire supplies and services that promote a clean energy economy that increases our Nation's energy security, safeguards the health of our environment, and reduces greenhouse gas emissions from direct and indirect Federal activities. To implement this policy, Federal acquisitions will foster markets for sustainable technologies, products, and services. This policy extends to all acquisitions, including those below the simplified acquisition threshold and those at or below the micro-purchase threshold (including those made with a Government purchase card).

(b) *Water-efficient.* In accordance with Executive Order 13514, dated October 5, 2009, Federal Leadership in Environmental, Energy, and Economic Performance, it is the policy and objective of the Government to use and manage water through water-efficient means by—

(1) Reducing potable water consumption intensity to include low-flow fixtures and efficient cooling towers;

(2) Reducing agency, industry, landscaping, and agricultural water consumption; and

(3) Storm water management in accordance with section 438 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17094) as implemented in <http://www.epa.gov/nps/lid/section438>.

[76 FR 31400, May 31, 2011]

23.203 Energy-efficient products.

(a) Unless exempt as provided at 23.204—

(1) When acquiring energy-consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program (FEMP)—

(i) Agencies shall purchase ENERGY STAR® or FEMP-designated products; and

(ii) For products that consume power in a standby mode and are listed on FEMP's Low Standby Power Devices product listing, agencies shall—

(A) Purchase items which meet FEMP's standby power wattage recommendation or document the reason for not purchasing such items; or

(B) If FEMP has listed a product without a corresponding wattage recommendation, purchase items which use no more than one watt in their standby power consuming mode. When it is impracticable to meet the one watt requirement, agencies shall purchase items with the lowest standby wattage practicable; and

(2) When contracting for services or construction that will include the provision of energy-consuming products, agencies shall specify products that comply with the applicable requirements in paragraph (a)(1) of this section.

(b) Information is available via the Internet about—

(1) ENERGY STAR® at <http://www.energystar.gov/products>; and

(2) FEMP at http://www1.eere.energy.gov/femp/procurement/eeep_requirements.html.

[72 FR 65872, Nov. 23, 2007]

23.204 Procurement exemptions.

An agency is not required to procure an ENERGY STAR® or FEMP-designated product if the head of the agency determines in writing that—

(a) No ENERGY STAR® or FEMP-designated product is reasonably available that meets the functional requirements of the agency; or

(b) No ENERGY STAR® or FEMP-designated product is cost effective over the life of the product taking energy cost savings into account.

[72 FR 65872, Nov. 23, 2007]

23.205 Energy-savings performance contracts.

(a) Agencies should make maximum use of the authority provided in the National Energy Conservation Policy Act (42 U.S.C. 8287) to use an energy-savings performance contract (ESPC), when life-cycle cost-effective, to reduce energy use and cost in the agency's facilities and operations.

(b)(1) Under an ESPC, an agency can contract with an energy service company for a period not to exceed 25 years to improve energy efficiency in one or